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Attorneys for Defendant
PATRICK DONAHOE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SHIRLEY MAHONEY,
Plaintiff,

v.

PATRICK DONAHOE, Postmaster General,
United States Postal Service,
Defendant.

Docket No. C 11-00177 MEJ

**STIPULATION AND AGREEMENT OF
COMPROMISE AND SETTLEMENT
AND ~~PROPOSED~~ ORDER**

IT IS HEREBY STIPULATED by and between the parties, after full and open discussion, that this action be settled and compromised on the following terms:

WHEREAS, Plaintiff filed the above-captioned action under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e-16, as amended, and the Rehabilitation Act of 1973;

WHEREAS, Plaintiff and Defendant wish to avoid any further litigation and controversy and to settle and compromise fully any and all claims and issues that have been raised, or could have been raised, arising out of Plaintiff's employment with Defendant, which have transpired prior to the execution of this Agreement;

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, and other good and valuable consideration, receipt of which is hereby acknowledged, the Parties agree as follows:

STIPULATION AND AGREEMENT FOR COMPROMISE AND SETTLEMENT
No. C 11-00177 MEJ

1 **1. Settlement Amount.** In full and final settlement of all claims in connection with the
 2 above-captioned action, defendant shall pay Plaintiff a total sum of Thirty Thousand Dollars
 3 (\$30,000.00) ("Settlement Amount") which shall be allocated as One Thousand Six Hundred
 4 Forty Dollars (\$1,640.00) as back pay, and Twenty Eight Thousand Three Hundred Sixty
 5 Dollars (\$28,360.00) as compensatory damages. Plaintiff understands that this payment will be
 6 reported to the Internal Revenue Service ("IRS"), and that any questions as to the tax liability,
 7 if any, as a result of this payment is a matter solely between Plaintiff and the IRS. The checks
 8 will be made payable to Shirley Mahoney, and will be mailed to Defendant's counsel per
 9 Plaintiff's request. Defendant's counsel shall notify Plaintiff when he has received the check.
 10 Plaintiff shall contact Defendant's counsel to arrange delivery of the check. Plaintiff has been
 11 informed that payment of the Settlement Amount may take sixty (60) days or more from the
 12 date that the Court "so orders" this Agreement to process.

13 **2. Release.** In consideration of the payment of the Settlement Amount and the other
 14 terms set forth in this Stipulation and Agreement, Plaintiff hereby releases and forever
 15 discharges Defendant, Patrick Donahoe, and any and all of the United States Postal Services'
 16 past and present officials, agents, employees, attorneys, insurers, their successors and assigns,
 17 from any and all obligations, damages, liabilities, actions, causes of actions, claims and
 18 demands of any kind and nature whatsoever, whether suspected or unsuspected, at law or in
 19 equity, known or unknown, or omitted prior to the date she executes this Agreement, which
 20 arise from or relate to her employment with UNITED STATES POSTAL SERVICE.

21 **3. Costs.** The parties agree that the Settlement Amount is in full satisfaction of all
 22 claims for costs arising from work performed by Plaintiff at all stages of litigation, including,
 23 but not limited to, the processing of Plaintiff's administrative and district court complaints in
 24 connection with the above-captioned action, and any other EEO administrative proceedings
 25 which are currently pending.

26 **4. Dismissal.** In consideration of the payment of the Settlement Amount and the other
 27 terms of this Stipulation and Agreement, Plaintiff agrees that she will within seven days of this
 28 agreement, execute a Stipulation of Dismissal, which stipulation shall dismiss, with prejudice,

1 all claims asserted in this Action or any claims that could have been asserted in this Action.
2 The fully executed Stipulation of Dismissal will be held by counsel for Defendant and will be
3 filed with the Court upon receipt by Plaintiff of the Settlement Amount.

4 5. **Waiver of California Civil Code § 1542.** The provisions of California Civil Code
5 Section 1542 are set forth below:

6 "A general release does not extend to claims which the creditor
7 does not know or suspect to exist in his or her favor at the time
8 of executing the release, which if known by him or her must have
 materially affected his or her settlement with the debtor."

9 Plaintiff has been apprised of the statutory language of Civil Code Section 1542, and fully
10 understanding the same, nevertheless elects to waive the benefits of any and all rights she may
11 have pursuant to the provision of that statute and any similar provision of federal law. Plaintiff
12 understands that, if the facts concerning Plaintiff's claims and the liability of the government
13 for damages pertaining thereto are found hereinafter to be other than or different from the facts
14 now believed by them to be true, this Agreement shall be and remain effective notwithstanding
15 such material difference.

16 6. **Agreement as a Complete Defense.** This Agreement may be pleaded as a full and
17 complete defense to any subsequent action or other proceeding involving any person or party
18 which arises out of the claims released and discharged by the Agreement.

19 7. **No Admission of Liability.** This is a compromise settlement of a disputed claim
20 and demand, which settlement does not constitute an admission of liability or fault on the part
21 of the Defendant, Patrick Donahoe, or any of the United States Postal Services' past and
22 present officials, agents, employees, attorneys, or insurers on account of the events described in
23 Plaintiff's complaint in this action.

24 8. **Tax Liability.** If any withholding or income tax liability is imposed upon Plaintiff
25 based on payment of the settlement sum received herein, Plaintiff shall be solely responsible
26 for paying any such determined liability from any government agency thereof.

27 9. **Enforcement Sole Remedy.** The parties agree that should any dispute arise with
28 respect to the implementation of the terms of this Agreement, Plaintiff shall not seek to rescind

1 the Agreement and pursue her original causes of action. Plaintiff's sole remedy in such a
2 dispute is an action to enforce the Agreement in the United States District Court for the
3 Northern District of California.

4 10. **Construction.** Each party hereby stipulates that it is fully aware of and
5 understands all of the terms of the Agreement and the legal consequences thereof. For
6 purposes of construction, this Agreement shall be deemed to have been drafted by all Parties to
7 this Agreement and shall not, therefore, be construed against any Party for that reason in any
8 subsequent dispute.

9 11. **Severability.** If any provision of this Agreement shall be invalid, illegal, or
10 unenforceable, the validity, legality, and enforceability of the remaining provision shall not in
11 any way be affected or impaired thereby.

12 12. **Integration.** This instrument shall constitute the entire Agreement between the
13 parties, and it is expressly understood and agreed that the Agreement has been freely and
14 voluntarily entered into by the parties hereto. The parties further acknowledge that no
15 warranties or representations have been made on any subject other than as set forth in this
16 Agreement. This Agreement may not be altered, modified or otherwise changed in any respect
17 except by writing, duly executed by all of the parties or their authorized representatives.

18 13. **Authority.** The signatories to this Agreement have actual authority to bind the
19 parties.


20 14. **Knowing and Voluntary Waiver of Remedies Under Age Discrimination in**
21 **Employment Act.** Plaintiff acknowledges that she has up to twenty-one (21) calendar days
22 from the dates she receives this Agreement to review and consider this Agreement, discuss it
23 with an attorney of her choice, and decide to sign it or not sign it, although she may accept or
24 return it to Defendant's counsel at any time within those twenty-one (21) days. Plaintiff is
25 advised to consult an attorney about the Agreement.

26 15. Once Plaintiff signs and dates this Agreement, she will have seven (7) days in
27 which to revoke her acceptance. To revoke, Plaintiff must send a written statement of
28 revocation, which should be mailed and faxed to:


Neill Tseng
United States Attorney
450 Golden Gate Avenue, Box 36055
San Francisco, CA 94102-3495
Fax: 415-436-6927

Plaintiff understands that if she revokes, this Agreement shall have no effect. If Plaintiff does not revoke, this Agreement will become effective on the eighth (8th) day ("the Effective Date") after the date Plaintiff signs and dates this Agreement.


DATED: 11-29-12


SHIRLEY MAHONEY
Plaintiff - Pro Se

DATED: 11/29/12


NEILL T. TSENG
Assistant United States Attorney
Attorney for Defendant

DATED: 11-29-12


KRISTEN L. WALSH
Agency Representative

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: December 11, 2012


HON. MARIA-ELENA JAMES
United States Magistrate Judge